



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JUNE 16, 2022

IN THE MATTER OF:

Appeal Board No. 621226

PRESENT: JUNE F. O'NEILL, MEMBER

In Appeal Board Nos. 621225 and 621226, the claimant appeals from the decisions of the Administrative Law Judge filed January 24, 2022, that sustained the initial determinations charging the claimant with an overpayment of \$504 in regular unemployment insurance benefits recoverable pursuant to Labor Law § 597 (4) and \$600 in Federal Pandemic Unemployment Compensation

(FPUC) benefits repayable pursuant to § 2104 (f) (2) of the Coronavirus Aid,

Relief, and Economic Security (CARES) Act of 2020; and charging a civil penalty of \$165.50 on the basis that the claimant made a willful misrepresentation to obtain benefits.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There was an appearance by the claimant.

The Board considered the arguments contained in the written statement submitted by the claimant.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant applied for benefits on June 1, 2020, effective May 25, 2020. She certified

for benefits for the week ending June 7, 2020 and received \$504.00 in regular unemployment insurance benefits and \$600.00 in Federal Pandemic Unemployment

Compensation (FPUC) benefits.

The Department of Labor issued initial determinations holding the claimant ineligible to receive benefits, effective June 1, 2020 through June 7, 2020, on the basis that the claimant failed to certify for the benefit period within the seven-day period for such certification; reducing the claimant's right to receive future benefits by zero effective days on the basis that the claimant made a willful misrepresentation to obtain benefits; and holding the claimant ineligible to receive benefits, effective May 25, 2020, on the basis that the claimant did not comply with reporting requirements. By decisions filed November 12, 2021 (Appeal Board Nos. 616445, 616446 and 616447), the decisions of the Administrative Law Judge were reversed and the initial determinations were sustained. The claimant applied to reopen the decisions of the Appeal Board filed November 12, 2021. The Board held a combined telephone conference hearing at which there were appearances by the claimant and on behalf of the Commissioner of Labor. By decisions filed June 9, 2022 (Appeal Board Nos. 620732, 620733 and 620734), the Board rescinded its decisions filed November 12, 2021, affirmed the decisions of the Administrative Law Judge, and overruled the initial determinations of failure to certify, willful misrepresentation to obtain benefits, and failure to comply with reporting requirements.

OPINION: Pursuant to Appeal Board Case Nos. 620732, 620733 and 620734, filed June 9, 2022, the Board has concluded that the claimant is not ineligible to receive benefits on the basis of failure to certify or failure to comply with reporting requirements, and that the claimant did not make a willful misrepresentation to obtain benefits. Accordingly, the benefits received by the claimant were not overpaid and the claimant is not subject to a civil penalty.

DECISION: The decisions of the Administrative Law Judge are reversed.

In Appeal Board Nos. 621225 and 621226, the initial determinations, charging the claimant with an overpayment of \$504 in regular unemployment insurance benefits recoverable pursuant to Labor Law § 597 (4) and \$600 in Federal

Pandemic Unemployment Compensation (FPUC) benefits repayable pursuant to §

2104 (f) (2) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020; and charging a civil penalty of \$165.50 on the basis that the

claimant made a willful misrepresentation to obtain benefits, are overruled.

The claimant is allowed benefits with respect to the issues decided herein.

JUNE F. O'NEILL, MEMBER